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EXTRAORDINARY

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PART II—Section 3—Sub-section (iii)

प्राधिकार से प्रकाशित

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NEW DELHI, WEDNESDAY, OCTOBER 3, 2001/ASVINA 11, 1923

भारत निर्वाचन आयोग

अधिसूचना

नई दिल्ली, 26 सितम्बर, 2001

आ.अ. 50(अ).—निर्वाचन आयोग वर्ष 1999 की निर्वाचन अर्जी संख्या 3 में जबलपुर स्थित मध्य प्रदेश उच्च न्यायालय के तारीख 24-11-99 के निर्णय और आदेश के विरुद्ध दाखिल की गई वर्ष 2000 की सिविल अपील संख्या 785 में तारीख 16 अगस्त, 2001 को दिए गए भारत के उच्चतम न्यायालय के आदेश को लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 116ग की उपधारा (2) के खण्ड (ख) के अनुसरण में इसके द्वारा प्रकाशित करता है।

(आदेश इस अधिसूचना के अंग्रेजी भाग में छपा है।)

[संख्या 82/म.प्र.-वि.स./ (3/99)/99]

आदेश से,

एल.एच. फारूकी, सचिव

ELECTION COMMISSION OF INDIA

NOTIFICATION

New Delhi, the 26th September, 2001

O.N. 50(E).—In pursuance of clause (b) of sub section (2) of Section 116C of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the order of the Supreme Court of India dated the 16th August, 2001 in Civil Appeal No. 785 of 2000 filed against the judgement and order dated 24-11-99 of the High Court of Madhya Pradesh at Jabalpur in Election Petition No. 3 of 1999.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 785 of 2000

Bal Mukund Dewangan

... Appellant (s)

Versus

Pratima Chandrakar & Ors.

... Respondent (s)

ORDER

This is an appeal in an election petition. The appellant was the election petitioner. He lost the election to the Assembly Constituency No. 166, Khertha, District Durg, Madhya Pradesh, to the first respondent by a margin of 158 votes.

Before the High Court, it was contended on behalf of the appellant that the whole election should be set aside on the ground of an alleged violation by reason of the non-adjourning of the poll in contravention of Section 57 of the Representation of People Act, 1951. The appellant and the respondent led evidence before the High Court and the following was established. At the polling station, Bijabhata, no voting took place between 11.00 a.m. and 1.35 p.m. This was for the reason that the presiding officer, one Mandavi, had permitted the local panchayat secretary, Virendra Sahu, to sit in the polling booth. Sahu had distributed ballot papers to voters so folded that the votes were likely to be rendered invalid. Mandavi had been replaced as a presiding officer at about 1.30 p.m. and thereafter polling had recommenced. In the cross-examination, one of the witnesses on behalf of the appellant, it had been revealed that Sahu had left the polling station at about 10.00 a.m.

The High Court observed, "If Virendra Sahu whose presence and participation had been objected to had already left the Polling station at 10 a.m. there was no justification to adjourn the poll and direct repoll". The High Court, therefore, found that Section 57 was not attracted and the election petition was dismissed.

Section 57 provides for the adjourning of polls in emergencies. It says, so far as is relevant, that "if at an election the proceedings at any polling station,..... are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station on account of any natural calamity, or any other sufficient cause the presiding officer shall announce an adjourning of the poll". The argument is that, in the present case, the poll should have been adjourned because the proceedings at the concerned polling station had been interrupted or obstructed on account of sufficient cause.

We are inclined to agree with the High Court that once Sahu had left the polling station, which he did at 10.00 a.m., the interruption or obstruction of the poll thereafter, between 11.00 a.m. and 1.35 p.m., cannot be said to be on account of sufficient cause.

The civil appeal is dismissed.

No order as to costs.

.....J.
(S.P. Bharucha)

.....J.
(Y.K. Sabharwal)

.....J.
(Brijesh Kumar)

New Delhi,
August 16, 2001

[No. 82/MP-LA/(3/99)/99]

By Order,
L.H. FARUQI, Secy.